



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

EPA Region 5 Records Ctr.



275767

REPLY TO THE ATTENTION OF

C-14J

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

CONFIDENTIAL AND INADMISSIBLE

SETTLEMENT COMMUNICATION

January 30, 2001

John Heer, Esq.
Walter & Haverfield
1300 Terminal Tower
Cleveland, Ohio 44113-2253

Re: Offer to Settle U.S. EPA Claims Against Sealy Related to the
Skinner Landfill in West Chester, Ohio

Dear Mr. Hear:

The United States Environmental Protection Agency (U.S. EPA) has contacted Sealy in the past regarding its activities connected with the Skinner Landfill in West Chester, Ohio (Site). Sealy provided U.S. EPA with the Allocator's findings from the ADR proceeding, and after reviewing that information U.S. EPA is prepared to settle its claims against your client. An agreement in principle to settle this matter now will save both the United States and your client the time and expense of preparing for litigation to resolve U.S. EPA's claims for response costs associated with Site.

As you are aware, U.S. EPA has taken response actions at the Site under the authority of the Superfund Program. Sealy is responsible for reimbursing the government for the response costs associated with these activities. On January 8, 1997, U.S. EPA sent general notice letters to the parties EPA considered to be PRPs at the Site, inviting them to participate in an ADR proceeding. U.S. EPA convened to allocate responsibility for clean-up costs at the Site. In February 1999, U.S. EPA issued a special notice to initiate discussions to fund the implementation of the Remedial Action and to reimburse U.S. EPA for its response costs. A Remedial Action Consent Decree to implement the approved design was subsequently negotiated with the majority of

the PRPs at the Site. The Remedial Action Consent Decree also resolves the liability of those parties in the contribution action filed by the Plaintiffs in the matter of The DOW Chemical Co., et al. v. Acme Wrecking Co. Inc., et al., (No. C-1-97-0307). Under the terms of the Remedial Action Consent Decree the PRPs are paying money into the Skinner Landfill Special Account that will be used both to implement the Remedial Action and reimburse U.S. EPA for its response costs. For this reason the Remedial Action Consent Decree is a global settlement resolving each settling party's liability with the government and with the Plaintiffs in DOW Chemical v. Acme Wrecking.

Unfortunately, Sealy was not included in the Remedial Action Consent Decree, and procedurally Sealy cannot be joined to that settlement due to the added time and expense to the government of amending that Consent Decree and complying with public notice requirements. Sealy may, however, resolve its liability on the same terms as those it would have received had it entered into the Remedial Action Consent Decree. In particular, I am prepared to recommend to my management and to the Department of Justice that Sealy be included in a second round settlement that would resolve the government's claims for response costs, as well as release Sealy from the contribution suit in DOW Chemical v. Acme Wrecking. While the terms of the settlement will have to be agreed upon by all of the parties, I am willing to recommend that the United States settle with Sealy for \$118,475. The settlement money would be paid into the Skinner Special Account, and would be available for distribution to help fund the Remedial Action, as well as to reimburse U.S. EPA for response costs. The settlement would be based upon the model consent decree and like the Remedial Action Consent Decree, it would include contribution protection, broad covenants not to sue, and limited reopeners for specific circumstances. In short, it would be a global settlement resolving all claims against Sealy related to the Site.

If Sealy is willing to settle this matter for \$118,475, and is willing to agree in principle to a settlement as discussed herein, please respond in writing within seven (7) days of your receipt of this letter. As always, please do not hesitate to contact me should you have any further questions about this matter.

Sincerely,



Craig Melodia
Assistant Regional Counsel

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SENDER:

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- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
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John Keen
Walter & Haverfield
1300 Terminal Tower
Cleveland, Oh 44113-
2753

4a. Article Number

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4b. Service Type

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